

Department of the Navy, DoD

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AUTHORITY: Sec. 48, Pub. L. 86-624, 74 Stat. 424; 3 U.S.C. 301; E.O. 11048, 3 CFR 1959-1963 Comp., p. 632 (1962).

SOURCE: 41 FR 29672, July 19, 1976, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 762 appear at 51 FR 22283, June 19, 1986.

Subpart A—General

§ 762.1 Applicability.

(a) The local criminal and civil laws of the Midway Islands consist of this part, the provisions of the laws of the State of Hawaii adopted pursuant to § 762.16(a) and § 762.112(a), applicable provisions of the laws of the United

States, and those laws made applicable under the special maritime jurisdiction contained in the Act of June 15, 1950 (ch. 253, 64 Stat. 217).

(b) For the purposes of this part, the Midway Islands include all public lands on, and all territorial waters and the contiguous zone adjacent to or surrounding, the Midway Islands, Hawaiian Group, between the parallels of 28°5' and 28°25' North Latitude, and between the meridians of 177°10' and 177°30' West Longitude, as were placed under the jurisdiction and control of the Navy Department by the provisions of Executive Order No. 199-A of January 20, 1903, as superseded by Executive Order No. 11048 of September 5, 1962.

§ 762.3 Purpose.

The purpose of this part 762 is to provide:

(a) For the civil administration of the Midway Islands;

(b) For vesting powers and duties in appropriate officers of the United States for the civil administration of the Midway Islands, including judicial and executive functions;

(c) Certain criminal provisions applicable to the Midway Islands not otherwise provided for, and penalties for their violations;

(d) A judicial system for the Midway Islands not otherwise provided for; and

(e) Certain civil laws for the Midway Islands not otherwise provided for.

§ 762.4 Scope.

(a) This part is applicable to all civilian and nonmilitary persons, and to all military personnel for matters involving civil administration, civil law, or criminal offenses not otherwise covered by the Uniform Code of Military Justice, while such persons are on the Midway Islands.

(b) In no event shall the provisions of this part supersede federal law, or the Uniform Code of Military Justice, nor shall the provisions of this part derogate the inherent or delegated authority, responsibility, and powers of the Officer-in-Charge, U.S. Naval Air Facility, Midway Island, under U.S. Navy Regulations, 1973, the Uniform Code of

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Military Justice, other pertinent Navy directives, and federal law.

[41 FR 29672, July 19, 1976, as amended at 51 FR 22283, June 19, 1986]

Subpart B—Executive Authority; Authorized Powers; Emergency Authority

§ 762.6 Executive authority; duration.

The executive authority at the Midway Islands is vested in the Secretary of the Navy. The Officer-in-Charge, U.S. Naval Air Facility, Midway Island, is the agent of the Secretary or his designee in carrying out any function, power, or duty under this part 762. The Officer-in-Charge's authority commences upon his assumption of command of U.S. Naval Air Facility, Midway Island, and continues until he is relieved of that command by replacement. In the event of the absence, disability, or death of the Officer-in-Charge, the Acting Commanding Officer of U.S. Naval Air Facility, Midway Island, is vested with the authority prescribed in this part for the Officer-in-Charge and shall remain so vested until the return, recovery, or replacement of the Officer-in-Charge.

[41 FR 29672, July 19, 1976, as amended at 51 FR 22283, June 19, 1986]

§ 762.8 Authorized functions, powers, and duties.

The Officer-in-Charge may, personally or through his staff:

- (a) Issue citations for violations of subpart C of this part;
- (b) Abate any public nuisance upon the failure of the person concerned to comply with a removal notice;
- (c) Make sanitation and fire-prevention inspections;
- (d) Perform marriages, and maintain records of vital statistics, including birth, marriage, and death certificates;
- (e) Inspect vehicles, including bicycles, for roadworthiness, and boats for seaworthiness;
- (f) Confiscate property used in committing a crime;
- (g) Investigate accidents and suspected crimes;
- (h) Move unlawfully parked vehicles, boats, or aircraft;

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(i) Take possession of lost or abandoned property and dispose of it under the provisions of 10 U.S.C. 2575 and applicable Navy directives;

(j) Delay or restrict the departure of any aircraft for reasonable cause;

(k) Impose quarantines;

(l) Impound and destroy unsanitary food, fish, or beverages;

(m) Evacuate any person from a hazardous area;

(n) Establish and maintain a facility for the lawful restraint or confinement of persons and provide for their care;

(o) Remove any person from the Midway Islands for cause;

(p) Issue traffic regulations that are not inconsistent with this part, and post traffic signs;

(q) Perform any other acts, not inconsistent with this part or other applicable laws or regulations, that he considers necessary for protecting the health and safety of persons and property on the Midway Islands; and

(r) Issue any order or notice necessary to implement this section.

[41 FR 29672, July 19, 1976, as amended at 51 FR 22283, June 19, 1986]

§ 762.10 Emergency authority.

During the imminence and duration of any emergency, the Officer-in-Charge may perform any acts necessary to protect life and property.

[41 FR 29672, July 19, 1976, as amended at 51 FR 22283, June 19, 1986]

Subpart C—Criminal Law; Petty Offenses; Penalties

§ 762.15 General.

In addition to any act made criminal in this part, any act committed on Midway Islands which would be a violation of the laws of the United States; or of the provisions of title 37, "Hawaii Revised Statutes," as they now appear or as they may be amended or recodified; or any act committed on the Midway Islands that would be criminal if committed on board a merchant vessel or other vessel belonging to the United States, is a criminal offense and shall be punished, respectively, according to this part; the laws of the United States; title 37, "Hawaii Revised Statutes," as it now appears or as it may be